

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

January 3, 2006

CALL TO PODIUM:

Trudy Schwarz

RESPONSIBLE STAFF:

**Trudy Schwarz, Community
Planning Director**

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
x	Joint Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	NA
Advertised	11/16/2005
	11/23/2005
	12/14/2006
	12/21/2006
Hearing Date	01/03/2006
Record Held Open	
Policy Discussion	

TITLE:**JOINT PUBLIC HEARING**

T-372 - This is a proposal to amend Chapter 24 of the City Code (City Zoning Ordinance), Article V, Entitled, "Site Development Plans," §24-172, Entitled, "Compliance With and Changes in Plan," and to create new §24-172A, Entitled, "Amendment to Site Development Plan," so as to revise requirements for amending site plans.

SUPPORTING BACKGROUND:

In 2001, the Planning Commission reinstituted a Consent calendar on their agendas, in order to run efficient meetings. It was brought to the attention of the Commission and Staff that there are conflicts with the Commission's proceedings and §24-172. In order to continue efficient meetings, staff and the Planning Commission propose this amendment to §24-172. The amendment proposes to divide the existing section into two sections, one for Compliance with Plans (§24-172) and one for Amendment to Site Plans. The language in §24-172A(a) regulates amendments to site plans, other than minor amendments (Staff Approvals). Minor Amendments are regulated in §24-172A(b) where the language is the same except for section (e) which would allow staff to approve very minor additions. At the hearing, staff will present samples of additions that meet that qualification.

Staff suggests that the Planning Commission hold its record open for 21 days and the City Council hold its record open for 31 days.



Presentation: 5 Minutes

Attachments: Index of Memoranda and Exhibits

(Originally scheduled for December 5, 2005, Meeting which was cancelled due to inclement weather)

DESIRED OUTCOME:

Planning Commission-record open 21 days, close January 24, 2005

City Council-record open 31 days, close January 6, 2006

Planning Commission recommendation-February 1, 2006

City Council-policy discussion February 21, 2006

INDEX OF MEMORANDA

T-372

1. Application
 2. Draft Ordinance
 3. Notice of December 5, 2005, joint public hearing to interested parties. Labels for people notified.
 4. Letter to Gaithersburg Gazette dated November 10, 2005, requesting a Legal Ad for November 16 and November 23, 2005, issues. Fax and email printed communications are same.
 5. Mayor and Council Cover Sheet for December 5, 2005, Joint Public Hearing
 6. Letter to Gaithersburg Gazette dated December 7, 2005, requesting a Legal Ad for December 14 and 21, 2005, issues. Fax and email printed communications re same.
 7. Notice of December 7, 2005, joint public hearing to interested parties. Labels for people notified. Rescheduled Date of Joint public hearing
 8. Mayor and Council Cover Sheet for January 3, 2005, Joint Public Hearing
 9. Typical additions to homes that are less than fifteen percent
-

TEXT AMENDMENT TO THE ZONING ORDINANCE

In accordance with Article VIII,
Section 24-194, 195, 197, and 198 of the City Code

Application Number	T-372
Filing Date	Nov. 9, 2005
P.C. Hearing	(Jt.) Dec. 5, 2005
M&C Hearing	(Jt.) Dec. 5, 2005
Decision	
Decision Date	

Application is hereby made to the

- ☒ City Planning Commission, or
☐ Mayor and City Council

for a change in the text of the Zoning Ordinance of the City of Gaithersburg, Maryland.

This change involves Article V, Section 24-172 & New 24-172A
to be amended per the attached ordinance.

Applicant/Staff Person Trudy Schwarz Date Nov. 9, 2005

Address 31 S. Summit Avenue Gaithersburg, MD 20877



ORDINANCE No. _____

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE
(CITY ZONING ORDINANCE), ARTICLE V, ENTITLED,
"SITE DEVELOPMENT PLANS," §24-172, ENTITLED, "COMPLIANCE WITH AND
CHANGES IN PLAN," AND TO CREATE NEW §24-172A, ENTITLED,
"AMENDMENT TO SITE DEVELOPMENT PLAN," SO AS TO REVISE
REQUIREMENTS FOR AMENDING SITE PLANS

Text Amendment T-372

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, Maryland, in public meeting assembled, that Chapter 24 of the City Code (City Zoning Ordinance), Article V, §24-172, and create new §24-172A, are hereby amended to read as follows:

ARTICLE V. SITE DEVELOPMENT PLANS

* * *

Sec. 24-172. Compliance with plan [and changes in plan].

(a) *Compliance requirements.* Land which is the subject of an approved site development plan shall be developed and used only in accordance with the approved plan or in accordance with amendments to said plan approved in accord with the provisions of this chapter. The approvals of site development plans or amendments thereto may contain such conditions as are necessary to ensure compliance with the requirements of this chapter or which are in the public interest. Use and development of land which is the subject of the site development plan or the construction of a building or structure thereon in a manner not in compliance with that plan is prohibited and shall constitute a violation of this chapter.

~~[(b) *Requests for amendment of site development plans.* A request for amendment shall be accompanied by so much of the information required by section 24-169 as is necessary to properly detail and permit action upon the request for amendment. At the time the application for amendment is filed, the applicant shall pay the prescribed fee for processing the request. Minor amendment requests shall be those requests specified in subsection (c) of this section and shall be acted upon by the planning director or his/her designee. The applicant for a minor amendment shall provide, by mail or personal delivery, written notice in a form approved by the~~



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Heading or defined term.
Added to existing law by original bill.
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Existing law unaffected by bill..

~~city planning department to owners of abutting and confronting properties of the amendment request within two (2) business days of filing the request, and shall certify the same to the planning department. All amendment requests, except for minor amendments, shall be subject to public hearing and a decision by the city planning commission.]~~

~~[(c) Minor amendment requests.~~

- ~~(1) Requests for minor amendment shall be filed with and acted upon by the planning director or his/her designee. Requests for minor amendment include:~~
- ~~(a) Resiting or relocation of buildings or structures including, but not limited to, garages and accessory structures on not more than three (3) contiguous lots, including moving or rotation of a building or structure's footprint, provided such moving or rotation does not shift a building or structure's footprint more than ten (10) feet in any direction.~~
 - ~~(b) Resiting of a lot with a house type previously approved by the city planning commission.~~
 - ~~(c) Approval of retaining walls/fences and other enclosures.~~
 - ~~(d) Minor revisions to building elevation and site plan details which do not add onto buildings or expand footprints of previously approved buildings (other than item (b) above).~~
 - ~~(e) Minor signage changes or additions.~~
 - ~~(f) Minor landscaping or pedestrian and sidewalk access revisions.~~
 - ~~(g) Addition of easements and parking areas or correction of easement and parking area locations.~~
 - ~~(h) Revisions to forest conservation plan.~~
 - ~~(i) Revisions or amendments delegated by the city planning commission.~~
- ~~(2) Public hearings of the planning commission are not required for a minor amendment, provided, however, the planning director or~~

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his/her designee shall, upon request, meet with the applicant and interested parties or consider written comments on the amendment.

(3) A minor amendment may only be granted if:

- (a) The amendment does not violate the development standards of the property's zoning or increase the lawful nonconformity of any lot or building; and
- (b) The amendment is in general harmony with the architectural and site design characteristics of the approved site development plan; and
- (c) The amendment will not substantially impair the intent, purpose or integrity of the neighborhood or the planning documents for the applicable area.

(4) The decision of the planning director (or designee) may be appealed to the city planning commission if filed with the planning department, in writing, within fifteen (15) days after the decision is mailed by the planning director. The planning commission, in its discretion, may hold a public hearing on the decision of the planning director, or order written statements and oral argument in lieu of a public hearing. The planning commission may approve, approve with modification, or disapprove the requested amendment(s) and shall state the reasons for its action.]

Sec. 24-172A. Amendment to site development plan.

A request for amendment to an approved site plan shall be accompanied by as much of the information required by section 24-169 as is necessary to properly detail and permit action upon the specific request for amendment. At the time the application for amendment is filed, the applicant shall pay the prescribed fee and submit proper application and copies of the amendment proposal for processing the request. All amendment requests, except for minor amendments, shall be subject to a decision by the city planning commission.

(a) Amendment requests, other than minor amendment. Amendment requests that are not minor amendment requests as set forth in subsection (b) of this section, are submitted to the planning commission and may be reviewed under either the consent agenda or the site plan agenda at the decision of the planning director or

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his/her designee. The planning commission, by a majority vote, may require a consent item to be placed on the site plan agenda with the required notification.

(b) Minor amendment requests.

- (1) Requests for minor amendment shall be filed with the planning director or designee. Minor amendment requests shall be those requests specified in this subsection and shall be acted upon by the planning director or his/her designee.
- (2) The applicant for a minor amendment shall provide, by mail or personal delivery, written notice in a form approved by the city planning department to owners of property abutting and confronting the property that is the subject of the amendment request within two (2) business days of filing the request, and shall certify the same to the planning department.
- (3) Requests for minor amendment include:
 - (a) Resiting or relocation of buildings or structures including, but not limited to, garages and accessory structures on not more than three (3) contiguous lots, including moving or rotation of a building or structure's footprint, provided such moving or rotation does not shift a building or structure's footprint more than ten (10) feet in any direction.
 - (b) Resiting of a lot with a house type previously approved by the city planning commission.
 - (c) Approval of retaining walls/fences and other enclosures.
 - (d) Minor revisions to building elevation and site plan details which do not add onto buildings or expand footprints of previously approved buildings (other than item (b) above) unless it conforms to item (e).
 - (e) Minor revisions to a single family detached, semi-detached or attached dwelling that do not increase the square footage of a dwelling as originally constructed on any and/ or all floors by more than fifteen percent (15%) and that have been approved by the homeowners' association of the subject property, if applicable.

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- (f) Minor signage changes or additions.
 - (g) Minor landscaping or pedestrian and sidewalk access revisions.
 - (h) Addition of easements and parking areas or correction of easement and parking area locations.
 - (i) Revisions to forest conservation plan.
 - (j) Revisions or amendments delegated by the city planning commission.
- (4) Public reviews of the planning commission are not required for a minor amendment, provided, however, the planning director or designee shall, upon request, meet with the applicant and interested parties or consider written comments on the amendment.
- (5) A minor amendment may only be granted if:
- (a) The amendment does not violate the development standards of the property's zoning or increase the lawful nonconformity of any lot or building; and
 - (b) The amendment is in general harmony with the architectural and site design characteristics of the approved site development plan; and
 - (c) The amendment will not substantially impair the intent, purpose or integrity of the neighborhood or the planning documents for the applicable area.
- (6) The decision of the planning director (or designee) may be appealed to the city planning commission if filed with the planning department, in writing, within fifteen (15) days after the decision is mailed by the planning director. The planning commission, in its discretion, may hold a public review on the decision of the planning director, or order written statements and oral argument in lieu of a public review. The planning commission may approve,

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approve with modification, or disapprove the requested amendment(s) and shall state the reasons for its action in writing.

ADOPTED by the City Council of Gaithersburg, Maryland, this _____ day of _____, 2006.

DELIVERED to the Mayor of the City of Gaithersburg, Maryland this _____ day of _____, 2006. APPROVED/VETOED by the Mayor of the City of Gaithersburg, Maryland this _____ day of _____, 2006.

SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the _____ day of _____, 2006, and the same was APPROVED/VETOED by the Mayor of the City of Gaithersburg on the _____ day of _____, 2006. This Ordinance will become effective on the _____ day of _____, 2006.

DAVID B. HUMPTON, City Manager

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- (h) Addition of easements and parking areas or correction of easement and parking area locations.
- (i) Revisions to forest conservation plan.
- (j) Revisions or amendments delegated by the city planning commission.
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ADOPTED by the City Council of Gaithersburg, Maryland, this _____ day of _____, 2006.

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DAVID B. HUMPTON, City Manager

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CITY OF GAITHERSBURG
31 South Summit Avenue
Gaithersburg, Maryland 20877
Telephone: 301-258-6330

NOTICE OF JOINT PUBLIC HEARING

The City of Gaithersburg Mayor and Council and Planning Commission will conduct a public hearing at the time and place noted below.

Meeting: MAYOR AND CITY COUNCIL
Application Type: TEXT AMENDMENT
File Number: T-372
Applicant: TRUDY SCHWARZ FOR MAYOR & CITY COUNCIL
Day/ Date/Time: MONDAY, DECEMBER 5, AT 7:30 P.M.
Place: COUNCIL CHAMBERS, GAITHERSBURG CITY HALL
31 SOUTH SUMMIT AVENUE

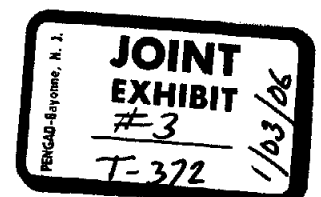
IMPORTANT

This is a proposal to amend Chapter 24 of the City Code (City Zoning Ordinance), Article V, Entitled, "Site Development Plans," §24-172, Entitled, "Compliance With and Changes in Plan," and to create new §24-172A, Entitled, "Amendment to Site Development Plan," so as to revise requirements for amending site plans. (A copy of the draft ordinance can be viewed at www.gaithersburgmd.gov.) This is an opportunity to publicly participate, other than providing written testimony that must be submitted before the public hearing record closes. Contact the Planning and Code Administration City Planner (listed below) at 301-258-6330 if you should have any questions and/or to learn more about this process and your ability to offer testimony and input.

Joint Mayor and City Council & Planning Commission meetings can be viewed live on Gaithersburg Cable Television Channel 13, and at anytime (on demand) two weeks after the public hearing via the Internet and Web TV at <http://www.gaithersburgmd.gov>.

CITY OF GAITHERSBURG

By: 
TRUDY SCHWARZ, Community Planning Director
Planning and Code Administration



NOTICES SENT THIS 17th DAY OF NOVEMBER, TO:

APPLICANT AND INTERESTED PARTIES

(A list of interested parties and agencies is available in the file in the Planning and Code Administration.)

MAYOR AND COUNCIL

PLANNING COMMISSION

CITY STAFF

David B. Humpton, City Manager
Frederick J. Felton, Assistant City Manager
Tony Tomasello, Assistant City Manager
Cathy Borten, City Attorney
Britta Monaco, Public Information Director
Doris Stokes, Administrative Assistant
Jeff Baldwin, City Web Administrator (via email)



November 10, 2005

Karey Major, Law Section
The Gaithersburg Gazette
P.O. Caller 6006
Gaithersburg, Maryland 20884

Dear Karey:

Please publish the following legal advertisement in the **November 16 and November 23, 2005**, issues of the *Gaithersburg Gazette*.

Sincerely,

Trudy Schwarz, Community Planning Director
Planning and Code Administration

ASSIGN CODE: T-372 Acct# 133649

NOTICE OF PUBLIC HEARING

The Mayor and Council and Planning Commission of the City of Gaithersburg will conduct a joint public hearing on T-372, filed by Trudy Schwarz on behalf of the Planning Commission, on

**MONDAY
DECEMBER 5, 2005
AT 7:30 P.M.**

or as soon thereafter as this matter can be heard in the Council Chambers at 31 South Summit Avenue, Gaithersburg, Maryland.

The application requests to Amend Chapter 24 of the City Code (City Zoning Ordinance), Article V, Entitled, "Site Development Plans," §24-172, Entitled, "Compliance With and Changes in Plan," and to create new §24-172A, Entitled, "Amendment to Site Development Plan," so as to revise requirements for amending site plans.

Further information may be obtained from the Planning and Code Administration Department at City Hall, 31 South Summit Avenue, between the hours of 8 a.m. and 5 p.m., Monday through Friday.

Trudy Schwarz, Community Planning Director
Planning and Code Administration
TS/mg



City of Gaithersburg • 31 South Summit Avenue, Gaithersburg, Maryland 20877-2098
301-258-6300 • FAX 301-948-6149 • TTY 301-258-6430 • cityhall@gaitthersburgmd.gov • www.gaitthersburgmd.gov

MAYOR
Sidney A. Katz

COUNCIL MEMBERS
Stanley L. Alster
Geraldine E. Edens
Blanche H. Keller
Henry F. Marraffa, Jr.
John B. Schlichting

CITY MANAGER
David B. Humpton

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

December 5, 2005

CALL TO PODIUM:

Trudy Schwarz

RESPONSIBLE STAFF:

**Trudy Schwarz, Community
Planning Director**

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
x	Joint Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	NA
Advertised	11/16/2005
	11/23/2005
Hearing Date	12/05/2005
Record Held Open	
Policy Discussion	

TITLE:**JOINT PUBLIC HEARING**

T-372 - This is a proposal to amend Chapter 24 of the City Code (City Zoning Ordinance), Article V, Entitled, "Site Development Plans," §24-172, Entitled, "Compliance With and Changes in Plan," and to create new §24-172A, Entitled, "Amendment to Site Development Plan," so as to revise requirements for amending site plans.

SUPPORTING BACKGROUND:

In 2001, the Planning Commission reinstituted a Consent calendar on their agendas, in order to run efficient meetings. It was brought to the attention of the Commission and Staff that there are conflicts with the Commission's proceedings and §24-172. In order to continue efficient meetings, staff and the Planning Commission propose this amendment to §24-172. The amendment proposes to divide the existing section into two sections, one for Compliance with Plans (§24-172) and one for Amendment to Site Plans. The language in §24-172A(a) regulates amendments to site plans, other than minor amendments (Staff Approvals). Minor Amendments are regulated in §24-172A(b) where the language is the same except for section (e) which would allow staff to approve very minor additions. At the hearing, staff will present samples of additions that meet that qualification.

Staff suggests that the Planning Commission hold its record open for 21 days and the City Council hold its record open for 31 days.

Presentation: 5 Minutes

Attachments: *Index of Memoranda and Exhibits*

**DESIRED OUTCOME:**

Planning Commission-record open 21 days, close December 27, 2005

City Council-record open 31 days, close January 6, 2006

Planning Commission recommendation-January 4, 2006

City Council-policy discussion January 17, 2006



December 7, 2005

Karey Major, Law Section
The Gaithersburg Gazette
P.O. Caller 6006
Gaithersburg, Maryland 20884

Dear Karey:

Please publish the following legal advertisement in the **December 14 and 21, 2005**, issues of the *Gaithersburg Gazette*.

Sincerely,

Trudy Schwarz, Community Planning Director
Planning and Code Administration

ASSIGN CODE: T-372 Acct# 133649

NOTICE OF PUBLIC HEARING

The Mayor and Council and Planning Commission of the City of Gaithersburg will conduct a joint public hearing on T-372, filed by Trudy Schwarz on behalf of the Planning Commission, on

**TUESDAY
JANUARY 3, 2006
AT 7:30 P.M.**

or as soon thereafter as this matter can be heard in the Council Chambers at 31 South Summit Avenue, Gaithersburg, Maryland.

The application requests to Amend Chapter 24 of the City Code (City Zoning Ordinance), Article V, Entitled, "Site Development Plans," §24-172, Entitled, "Compliance With and Changes in Plan," and to create new §24-172A, Entitled, "Amendment to Site Development Plan," so as to revise requirements for amending site plans.

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Trudy Schwarz, Community Planning Director
Planning and Code Administration
TS/mg



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301-258-6300 • FAX 301-948-6149 • TTY 301-258-6430 • cityhall@gaitersburgmd.gov • www.gaitersburgmd.gov

MAYOR
Sidney A. Katz

COUNCIL MEMBERS
Stanley J. Alster
Geraldine E. Edens
Henry F. Marraffa, Jr.
John B. Schlichting
Michael A. Sesma

CITY MANAGER
David B. Hampton



CITY OF GAITHERSBURG
31 South Summit Avenue
Gaithersburg, Maryland 20877
Telephone: 301-258-6330

NOTICE OF RESCHEDULED JOINT PUBLIC HEARING

The City of Gaithersburg Mayor and Council and Planning Commission will conduct a public hearing at the time and place noted below.

Meeting: **MAYOR AND CITY COUNCIL**
Application Type: **TEXT AMENDMENT**
File Number: **T-372**
Applicant: **TRUDY SCHWARZ FOR MAYOR & CITY COUNCIL**
Day/ Date/Time: **TUESDAY, JANUARY 3, 2006, AT 7:30 P.M.**
Place: **COUNCIL CHAMBERS, GAITHERSBURG CITY HALL
31 SOUTH SUMMIT AVENUE**

*****IMPORTANT*****

This is a proposal to amend Chapter 24 of the City Code (City Zoning Ordinance), Article V, Entitled, "Site Development Plans," §24-172, Entitled, "Compliance With and Changes in Plan," and to create new §24-172A, Entitled, "Amendment to Site Development Plan," so as to revise requirements for amending site plans. (A copy of the draft ordinance can be viewed at www.gaithersburgmd.gov.) This is an opportunity to publicly participate, other than providing written testimony that must be submitted before the public hearing record closes. Contact the Planning and Code Administration City Planner (listed below) at 301-258-6330 if you should have any questions and/or to learn more about this process and your ability to offer testimony and input.

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CITY OF GAITHERSBURG

By:

TRUDY SCHWARZ, Community Planning Director
Planning and Code Administration



NOTICES SENT THIS 7th DAY OF DECEMBER, 2005, TO:

APPLICANT AND INTERESTED PARTIES

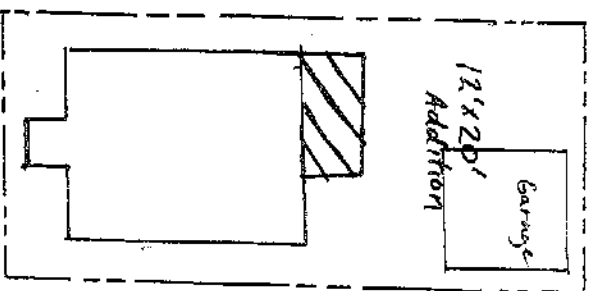
(A list of interested parties and agencies is available in the file in the Planning and Code Administration.)

MAYOR AND COUNCIL

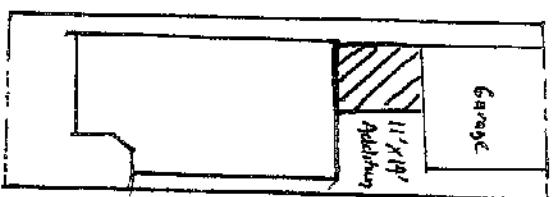
PLANNING COMMISSION

CITY STAFF

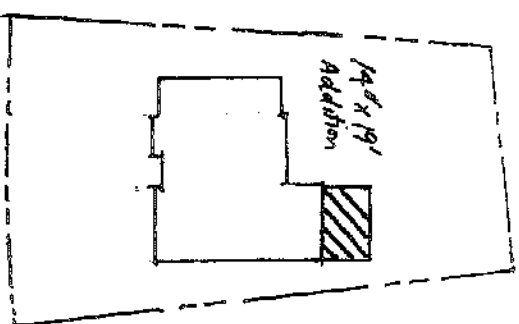
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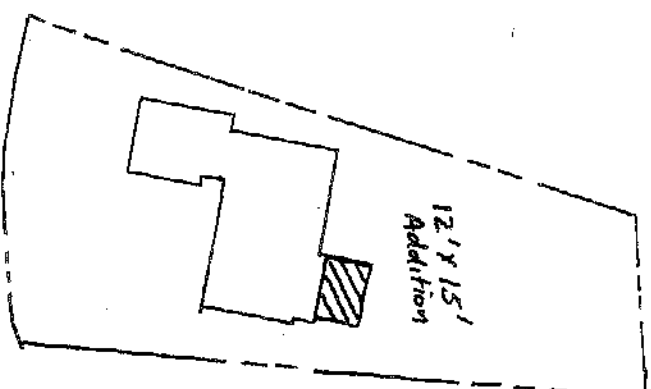
THURGOOD STREET
9.4 % Addition
Not to Scale



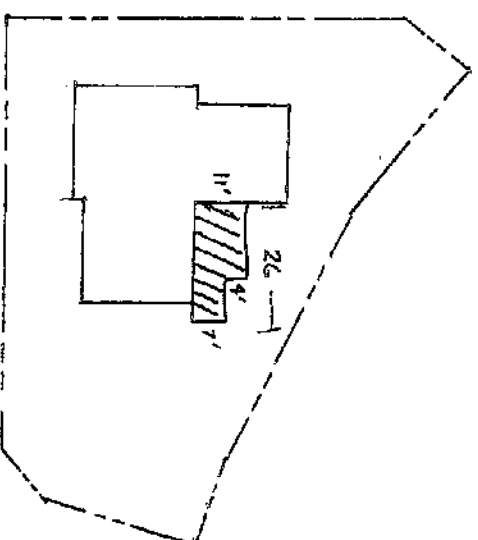
CHURCH GATE LANE
8 % Addition
Not to Scale



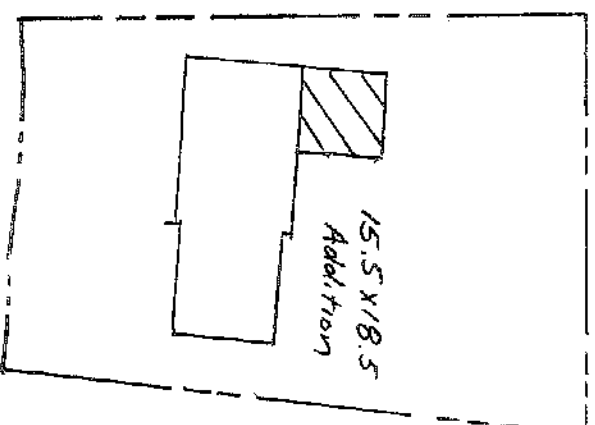
MIDSUMMER DRIVE
7.4 % Addition
Not to Scale



FLAME LEAF CT
8 % Addition
Not to Scale



TSCHEFFELY SQUARE ROAD
8.7 % Addition
Not to Scale



ALLENHURST COURT
13.5 % Addition
Not to Scale